

Adopted	Rejected
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COMMITTEE REPORT

YES:	22
NO:	0

MR. SPEAKER:

*Your Committee on Ways and Means, to which was referred Senate Bill 345, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 6-1.1-4-4.5, AS AMENDED BY P.L.228-2005,
- 4 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 5 MARCH 1, 2006 (RETROACTIVE)]: Sec. 4.5. (a) The department of
- 6 local government finance shall adopt rules establishing a system for
- 7 annually adjusting the assessed value of real property to account for
- 8 changes in value in those years since a general reassessment of property
- 9 last took effect.
- 10 (b) Subject to subsection (e), the system must be applied to adjust
- 11 assessed values beginning with the ~~2006~~ **2007** assessment date and each
- 12 year thereafter that is not a year in which a reassessment becomes
- 13 effective.
- 14 (c) The rules adopted under subsection (a) must include the
- 15 following characteristics in the system:

- 1 (1) Promote uniform and equal assessment of real property within
- 2 and across classifications.
- 3 (2) Require that assessing officials:
 - 4 (A) reevaluate the factors that affect value;
 - 5 (B) express the interactions of those factors mathematically;
 - 6 (C) use mass appraisal techniques to estimate updated property
 - 7 values within statistical measures of accuracy; and
 - 8 (D) provide notice to taxpayers of an assessment increase that
 - 9 results from the application of annual adjustments.
- 10 (3) Prescribe procedures that permit the application of the
- 11 adjustment percentages in an efficient manner by assessing
- 12 officials.
- 13 (d) The department of local government finance must review and
- 14 certify each annual adjustment determined under this section.
- 15 (e) In making the annual determination of the base rate to satisfy the
- 16 requirement for an annual adjustment under subsection (a), the
- 17 department of local government finance shall determine the base rate
- 18 using the methodology reflected in Table 2-18 of Book 1, Chapter 2 of
- 19 the department of local government finance's Real Property Assessment
- 20 Guidelines (as in effect on January 1, 2005), except that the department
- 21 shall adjust the methodology to use a six (6) year rolling average
- 22 instead of a four (4) year rolling average."
- 23 Page 2, line 4, delete "6.20%" and insert "**0.68%**".
- 24 Page 2, line 6, delete "10.40%" and insert "**15.92%**".
- 25 Page 2, between lines 17 and 18, begin a new paragraph and insert:
- 26 "SECTION 3. IC 6-3-1-3.5, AS AMENDED BY P.L.246-2005,
- 27 SECTION 69, IS AMENDED TO READ AS FOLLOWS
- 28 [EFFECTIVE JULY 1, 2006]: Sec. 3.5. When used in this article, the
- 29 term "adjusted gross income" shall mean the following:
- 30 (a) In the case of all individuals, "adjusted gross income" (as defined
- 31 in Section 62 of the Internal Revenue Code), modified as follows:
 - 32 (1) Subtract income that is exempt from taxation under this article
 - 33 by the Constitution and statutes of the United States.
 - 34 (2) Add an amount equal to any deduction or deductions allowed
 - 35 or allowable pursuant to Section 62 of the Internal Revenue Code
 - 36 for taxes based on or measured by income and levied at the state
 - 37 level by any state of the United States.
 - 38 (3) Subtract one thousand dollars (\$1,000), or in the case of a joint

- 1 return filed by a husband and wife, subtract for each spouse one
2 thousand dollars (\$1,000).
- 3 (4) Subtract one thousand dollars (\$1,000) for:
- 4 (A) each of the exemptions provided by Section 151(c) of the
5 Internal Revenue Code;
- 6 (B) each additional amount allowable under Section 63(f) of
7 the Internal Revenue Code; and
- 8 (C) the spouse of the taxpayer if a separate return is made by
9 the taxpayer and if the spouse, for the calendar year in which
10 the taxable year of the taxpayer begins, has no gross income
11 and is not the dependent of another taxpayer.
- 12 (5) Subtract:
- 13 (A) one thousand five hundred dollars (\$1,500) for each of the
14 exemptions allowed under Section 151(c)(1)(B) of the Internal
15 Revenue Code for taxable years beginning after December 31,
16 1996; and
- 17 (B) five hundred dollars (\$500) for each additional amount
18 allowable under Section 63(f)(1) of the Internal Revenue Code
19 if the adjusted gross income of the taxpayer, or the taxpayer
20 and the taxpayer's spouse in the case of a joint return, is less
21 than forty thousand dollars (\$40,000).
- 22 This amount is in addition to the amount subtracted under
23 subdivision (4).
- 24 (6) Subtract an amount equal to the lesser of:
- 25 (A) that part of the individual's adjusted gross income (as
26 defined in Section 62 of the Internal Revenue Code) for that
27 taxable year that is subject to a tax that is imposed by a
28 political subdivision of another state and that is imposed on or
29 measured by income; or
- 30 (B) two thousand dollars (\$2,000).
- 31 (7) Add an amount equal to the total capital gain portion of a lump
32 sum distribution (as defined in Section 402(e)(4)(D) of the
33 Internal Revenue Code) if the lump sum distribution is received
34 by the individual during the taxable year and if the capital gain
35 portion of the distribution is taxed in the manner provided in
36 Section 402 of the Internal Revenue Code.
- 37 (8) Subtract any amounts included in federal adjusted gross
38 income under Section 111 of the Internal Revenue Code as a

- 1 recovery of items previously deducted as an itemized deduction
2 from adjusted gross income.
- 3 (9) Subtract any amounts included in federal adjusted gross
4 income under the Internal Revenue Code which amounts were
5 received by the individual as supplemental railroad retirement
6 annuities under 45 U.S.C. 231 and which are not deductible under
7 subdivision (1).
- 8 (10) Add an amount equal to the deduction allowed under Section
9 221 of the Internal Revenue Code for married couples filing joint
10 returns if the taxable year began before January 1, 1987.
- 11 (11) Add an amount equal to the interest excluded from federal
12 gross income by the individual for the taxable year under Section
13 128 of the Internal Revenue Code if the taxable year began before
14 January 1, 1985.
- 15 (12) Subtract an amount equal to the amount of federal Social
16 Security and Railroad Retirement benefits included in a taxpayer's
17 federal gross income by Section 86 of the Internal Revenue Code.
- 18 (13) In the case of a nonresident taxpayer or a resident taxpayer
19 residing in Indiana for a period of less than the taxpayer's entire
20 taxable year, the total amount of the deductions allowed pursuant
21 to subdivisions (3), (4), (5), and (6) shall be reduced to an amount
22 which bears the same ratio to the total as the taxpayer's income
23 taxable in Indiana bears to the taxpayer's total income.
- 24 (14) In the case of an individual who is a recipient of assistance
25 under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7,
26 subtract an amount equal to that portion of the individual's
27 adjusted gross income with respect to which the individual is not
28 allowed under federal law to retain an amount to pay state and
29 local income taxes.
- 30 (15) In the case of an eligible individual, subtract the amount of
31 a Holocaust victim's settlement payment included in the
32 individual's federal adjusted gross income.
- 33 (16) For taxable years beginning after December 31, 1999,
34 subtract an amount equal to the portion of any premiums paid
35 during the taxable year by the taxpayer for a qualified long term
36 care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the
37 taxpayer's spouse, or both.
- 38 (17) Subtract an amount equal to the lesser of:

- 1 (A) for a taxable year:
- 2 (i) including any part of 2004, the amount determined under
- 3 subsection (f); and
- 4 (ii) beginning after December 31, 2004, two thousand five
- 5 hundred dollars (\$2,500); or
- 6 (B) the amount of property taxes that are paid during the
- 7 taxable year in Indiana by the individual on the individual's
- 8 principal place of residence.
- 9 (18) Subtract an amount equal to the amount of a September 11
- 10 terrorist attack settlement payment included in the individual's
- 11 federal adjusted gross income.
- 12 (19) Add or subtract the amount necessary to make the adjusted
- 13 gross income of any taxpayer that owns property for which bonus
- 14 depreciation was allowed in the current taxable year or in an
- 15 earlier taxable year equal to the amount of adjusted gross income
- 16 that would have been computed had an election not been made
- 17 under Section 168(k) of the Internal Revenue Code to apply bonus
- 18 depreciation to the property in the year that it was placed in
- 19 service.
- 20 (20) Add an amount equal to any deduction allowed under Section
- 21 172 of the Internal Revenue Code.
- 22 (21) Add or subtract the amount necessary to make the adjusted
- 23 gross income of any taxpayer that placed Section 179 property (as
- 24 defined in Section 179 of the Internal Revenue Code) in service
- 25 in the current taxable year or in an earlier taxable year equal to the
- 26 amount of adjusted gross income that would have been computed
- 27 had an election for federal income tax purposes not been made for
- 28 the year in which the property was placed in service to take
- 29 deductions under Section 179 of the Internal Revenue Code in a
- 30 total amount exceeding twenty-five thousand dollars (\$25,000).
- 31 (22) Add an amount equal to the amount that a taxpayer claimed
- 32 as a deduction for domestic production activities for the taxable
- 33 year under Section 199 of the Internal Revenue Code for federal
- 34 income tax purposes.
- 35 (b) In the case of corporations, the same as "taxable income" (as
- 36 defined in Section 63 of the Internal Revenue Code) adjusted as
- 37 follows:
- 38 (1) Subtract income that is exempt from taxation under this article

- 1 by the Constitution and statutes of the United States.
- 2 (2) Add an amount equal to any deduction or deductions allowed
3 or allowable pursuant to Section 170 of the Internal Revenue
4 Code.
- 5 (3) Add an amount equal to any deduction or deductions allowed
6 or allowable pursuant to Section 63 of the Internal Revenue Code
7 for taxes based on or measured by income and levied at the state
8 level by any state of the United States.
- 9 (4) Subtract an amount equal to the amount included in the
10 corporation's taxable income under Section 78 of the Internal
11 Revenue Code.
- 12 (5) Add or subtract the amount necessary to make the adjusted
13 gross income of any taxpayer that owns property for which bonus
14 depreciation was allowed in the current taxable year or in an
15 earlier taxable year equal to the amount of adjusted gross income
16 that would have been computed had an election not been made
17 under Section 168(k) of the Internal Revenue Code to apply bonus
18 depreciation to the property in the year that it was placed in
19 service.
- 20 (6) Add an amount equal to any deduction allowed under Section
21 172 of the Internal Revenue Code.
- 22 (7) Add or subtract the amount necessary to make the adjusted
23 gross income of any taxpayer that placed Section 179 property (as
24 defined in Section 179 of the Internal Revenue Code) in service
25 in the current taxable year or in an earlier taxable year equal to the
26 amount of adjusted gross income that would have been computed
27 had an election for federal income tax purposes not been made for
28 the year in which the property was placed in service to take
29 deductions under Section 179 of the Internal Revenue Code in a
30 total amount exceeding twenty-five thousand dollars (\$25,000).
- 31 (8) Add an amount equal to the amount that a taxpayer claimed as
32 a deduction for domestic production activities for the taxable year
33 under Section 199 of the Internal Revenue Code for federal
34 income tax purposes.
- 35 **(9) Add to the extent required by IC 6-3-2-20 the amount of**
36 **intangible expenses (as defined in IC 6-3-2-20) and any**
37 **directly related intangible interest expenses (as defined in**
38 **IC 6-3-2-20) for the taxable year that reduced the**

corporation's taxable income (as defined in Section 63 of the Internal Revenue Code) for federal income tax purposes.

(c) In the case of life insurance companies (as defined in Section 816(a) of the Internal Revenue Code) that are organized under Indiana law, the same as "life insurance company taxable income" (as defined in Section 801 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 or Section 810 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year

1 under Section 199 of the Internal Revenue Code for federal
2 income tax purposes.

3 (d) In the case of insurance companies subject to tax under Section
4 831 of the Internal Revenue Code and organized under Indiana law, the
5 same as "taxable income" (as defined in Section 832 of the Internal
6 Revenue Code), adjusted as follows:

7 (1) Subtract income that is exempt from taxation under this article
8 by the Constitution and statutes of the United States.

9 (2) Add an amount equal to any deduction allowed or allowable
10 under Section 170 of the Internal Revenue Code.

11 (3) Add an amount equal to a deduction allowed or allowable
12 under Section 805 or Section 831(c) of the Internal Revenue Code
13 for taxes based on or measured by income and levied at the state
14 level by any state.

15 (4) Subtract an amount equal to the amount included in the
16 company's taxable income under Section 78 of the Internal
17 Revenue Code.

18 (5) Add or subtract the amount necessary to make the adjusted
19 gross income of any taxpayer that owns property for which bonus
20 depreciation was allowed in the current taxable year or in an
21 earlier taxable year equal to the amount of adjusted gross income
22 that would have been computed had an election not been made
23 under Section 168(k) of the Internal Revenue Code to apply bonus
24 depreciation to the property in the year that it was placed in
25 service.

26 (6) Add an amount equal to any deduction allowed under Section
27 172 of the Internal Revenue Code.

28 (7) Add or subtract the amount necessary to make the adjusted
29 gross income of any taxpayer that placed Section 179 property (as
30 defined in Section 179 of the Internal Revenue Code) in service
31 in the current taxable year or in an earlier taxable year equal to the
32 amount of adjusted gross income that would have been computed
33 had an election for federal income tax purposes not been made for
34 the year in which the property was placed in service to take
35 deductions under Section 179 of the Internal Revenue Code in a
36 total amount exceeding twenty-five thousand dollars (\$25,000).

37 (8) Add an amount equal to the amount that a taxpayer claimed as
38 a deduction for domestic production activities for the taxable year

1 under Section 199 of the Internal Revenue Code for federal
2 income tax purposes.

3 (e) In the case of trusts and estates, "taxable income" (as defined for
4 trusts and estates in Section 641(b) of the Internal Revenue Code)
5 adjusted as follows:

6 (1) Subtract income that is exempt from taxation under this article
7 by the Constitution and statutes of the United States.

8 (2) Subtract an amount equal to the amount of a September 11
9 terrorist attack settlement payment included in the federal adjusted
10 gross income of the estate of a victim of the September 11 terrorist
11 attack or a trust to the extent the trust benefits a victim of the
12 September 11 terrorist attack.

13 (3) Add or subtract the amount necessary to make the adjusted
14 gross income of any taxpayer that owns property for which bonus
15 depreciation was allowed in the current taxable year or in an
16 earlier taxable year equal to the amount of adjusted gross income
17 that would have been computed had an election not been made
18 under Section 168(k) of the Internal Revenue Code to apply bonus
19 depreciation to the property in the year that it was placed in
20 service.

21 (4) Add an amount equal to any deduction allowed under Section
22 172 of the Internal Revenue Code.

23 (5) Add or subtract the amount necessary to make the adjusted
24 gross income of any taxpayer that placed Section 179 property (as
25 defined in Section 179 of the Internal Revenue Code) in service
26 in the current taxable year or in an earlier taxable year equal to the
27 amount of adjusted gross income that would have been computed
28 had an election for federal income tax purposes not been made for
29 the year in which the property was placed in service to take
30 deductions under Section 179 of the Internal Revenue Code in a
31 total amount exceeding twenty-five thousand dollars (\$25,000).

32 (6) Add an amount equal to the amount that a taxpayer claimed as
33 a deduction for domestic production activities for the taxable year
34 under Section 199 of the Internal Revenue Code for federal
35 income tax purposes.

36 (f) This subsection applies only to the extent that an individual paid
37 property taxes in 2004 that were imposed for the March 1, 2002,
38 assessment date or the January 15, 2003, assessment date. The

1 maximum amount of the deduction under subsection (a)(17) is equal to
 2 the amount determined under STEP FIVE of the following formula:

3 STEP ONE: Determine the amount of property taxes that the
 4 taxpayer paid after December 31, 2003, in the taxable year for
 5 property taxes imposed for the March 1, 2002, assessment date
 6 and the January 15, 2003, assessment date.

7 STEP TWO: Determine the amount of property taxes that the
 8 taxpayer paid in the taxable year for the March 1, 2003,
 9 assessment date and the January 15, 2004, assessment date.

10 STEP THREE: Determine the result of the STEP ONE amount
 11 divided by the STEP TWO amount.

12 STEP FOUR: Multiply the STEP THREE amount by two
 13 thousand five hundred dollars (\$2,500).

14 STEP FIVE: Determine the sum of the STEP FOUR amount and
 15 two thousand five hundred dollars (\$2,500).

16 SECTION 4. IC 6-3-2-20 IS ADDED TO THE INDIANA CODE
 17 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2006]: **Sec. 20. (a) The following definitions apply**
 19 **throughout this section:**

20 (1) "Affiliated group" has the meaning provided in Section
 21 1504 of the Internal Revenue Code, except that the ownership
 22 percentage in Section 1504(a)(2) of the Internal Revenue Code
 23 shall be determined using fifty percent (50%) instead of eighty
 24 percent (80%).

25 (2) "Directly related intangible interest expenses" means
 26 interest expenses that are paid to, or accrued or incurred as a
 27 liability to, a recipient if:

28 (A) the amounts represent, in the hands of the recipient,
 29 income from making one (1) or more loans; and

30 (B) the funds loaned were originally received by the
 31 recipient from the payment of intangible expenses by any
 32 of the following:

33 (i) The taxpayer.

34 (ii) A member of the same affiliated group as the
 35 taxpayer.

36 (iii) A foreign corporation.

37 (3) "Foreign corporation" means a corporation that is
 38 organized under the laws of a country other than the United

1 States and would be a member of the same affiliated group as
2 the taxpayer if the corporation were organized under the laws
3 of the United States.

4 (4) "Intangible expenses" means the following amounts to the
5 extent these amounts are allowed as deductions in determining
6 taxable income under Section 63 of the Internal Revenue Code
7 before the application of any net operating loss deduction and
8 special deductions for the taxable year:

9 (A) Expenses, losses, and costs directly for, related to, or in
10 connection with the acquisition, use, maintenance,
11 management, ownership, sale, exchange, or any other
12 disposition of intangible property.

13 (B) Royalty, patent, technical, and copyright fees.

14 (C) Licensing fees.

15 (D) Other substantially similar expenses and costs.

16 (5) "Intangible property" means patents, patent applications,
17 trade names, trademarks, service marks, copyrights, trade
18 secrets, and substantially similar types of intangible assets.

19 (6) "Interest expenses" means amounts that are allowed as
20 deductions under Section 163 of the Internal Revenue Code in
21 determining taxable income under Section 63 of the Internal
22 Revenue Code before the application of any net operating loss
23 deductions and special deductions for the taxable year.

24 (7) "Makes a disclosure" means a taxpayer provides the
25 following information regarding a transaction with a member
26 of the same affiliated group or a foreign corporation involving
27 an intangible expense and any directly related intangible
28 interest expense with the taxpayer's tax return on the forms
29 prescribed by the department:

30 (A) The name of the recipient.

31 (B) The state or country of domicile of the recipient.

32 (C) The amount paid to the recipient.

33 (D) A copy of federal Form 851, Affiliation Schedule, as
34 filed with the taxpayer's federal consolidated tax return.

35 (E) The information needed to determine the taxpayer's
36 status under the exceptions listed in subsection (c).

37 (8) "Recipient" means:

38 (A) a member of the same affiliated group as the taxpayer;

- 1 **or**
- 2 **(B) a foreign corporation;**
- 3 **to which is paid an item of income that corresponds to an**
- 4 **intangible expense or any directly related intangible interest**
- 5 **expense.**
- 6 **(9) "Unrelated party" means a person that, with respect to the**
- 7 **taxpayer, is not a member of the same affiliated group or a**
- 8 **foreign corporation.**
- 9 **(b) Except as provided in subsection (c), in determining its**
- 10 **adjusted gross income under IC 6-3-1-3.5(b), a corporation subject**
- 11 **to the tax imposed by IC 6-3-2-1 shall add to its taxable income**
- 12 **under Section 63 of the Internal Revenue Code:**
- 13 **(1) intangible expenses; and**
- 14 **(2) any directly related intangible interest expenses;**
- 15 **paid, accrued, or incurred with one (1) or more members of the**
- 16 **same affiliated group or with one (1) or more foreign corporations.**
- 17 **(c) The addition of intangible expenses or any directly related**
- 18 **intangible interest expenses otherwise required in a taxable year**
- 19 **under subsection (b) is not required if one (1) or more of the**
- 20 **following apply to the taxable year:**
- 21 **(1) The taxpayer and the recipient are both included in the**
- 22 **same consolidated tax return filed under IC 6-3-4-14 or in the**
- 23 **same combined return filed under IC 6-3-2-2(q) for the**
- 24 **taxable year.**
- 25 **(2) The taxpayer makes a disclosure and, at the request of the**
- 26 **department, can establish by a preponderance of the evidence**
- 27 **that:**
- 28 **(A) the item of income corresponding to the intangible**
- 29 **expenses and any directly related intangible interest**
- 30 **expenses was included within the recipient's income that is**
- 31 **subject to tax in:**
- 32 **(i) a state or possession of the United States; or**
- 33 **(ii) a country other than the United States;**
- 34 **that is the recipient's commercial domicile and that**
- 35 **imposes a net income tax, a franchise tax measured, in**
- 36 **whole or in part, by net income, or a value added tax;**
- 37 **(B) the transaction giving rise to the intangible expenses**
- 38 **and any directly related intangible interest expenses**

1 between the taxpayer and the recipient was made at a
2 commercially reasonable rate and at terms comparable to
3 an arm's length transaction; and

4 (C) the transactions giving rise to the intangible expenses
5 and any directly related intangible interest expenses
6 between the taxpayer and the recipient did not have
7 Indiana tax avoidance as a principal purpose.

8 (3) The taxpayer makes a disclosure and, at the request of the
9 department, can establish by a preponderance of the evidence
10 that:

11 (A) the recipient regularly engages in transactions
12 involving intangible property with one (1) or more
13 unrelated parties on terms substantially similar to that of
14 the subject transaction; and

15 (B) the transactions giving rise to the intangible expenses
16 and any directly related intangible interest expenses
17 between the taxpayer and the recipient did not have
18 Indiana tax avoidance as a principal purpose.

19 (4) The taxpayer makes a disclosure and, at the request of the
20 department, can establish by a preponderance of the evidence
21 that:

22 (A) the recipient paid, accrued, or incurred a liability to an
23 unrelated party during the taxable year for an equal or
24 greater amount that was directly for, related to, or in
25 connection with the same intangible property giving rise to
26 the intangible expenses; and

27 (B) the transactions giving rise to the intangible expenses
28 and any directly related intangible interest expenses
29 between the taxpayer and the recipient did not have
30 Indiana tax avoidance as a principal purpose.

31 (5) The taxpayer makes a disclosure and, at the request of the
32 department, can establish by a preponderance of the evidence
33 that:

34 (A) the recipient is engaged in:

35 (i) substantial business activities from the acquisition,
36 use, licensing, maintenance, management, ownership,
37 sale, exchange, or any other disposition of intangible
38 property; or

- 1 (ii) other substantial business activities separate and
 2 apart from the business activities described in item (i);
 3 as evidenced by the maintenance of a permanent office
 4 space and adequate full-time experienced employees;
 5 (B) the transaction giving rise to the intangible expenses
 6 and any directly related intangible interest expenses
 7 between the taxpayer and the recipient was made at a
 8 commercially reasonable rate and at terms comparable to
 9 an arm's length transaction; and
 10 (C) the transactions giving rise to the intangible expenses
 11 and any directly related intangible interest expenses
 12 between the taxpayer and the recipient did not have
 13 Indiana tax avoidance as a principal purpose.
- 14 (6) The taxpayer and the department agree, in writing, to the
 15 application or use of an alternative method of allocation or
 16 appointment under section 2(l) or 2(m) of this chapter.
- 17 (7) Upon request by the taxpayer, the department determines
 18 that the adjustment otherwise required by this section is
 19 unreasonable.
- 20 (d) If the recipient is a foreign corporation, intangible expenses
 21 or directly related intangible interest expenses shall be considered
 22 to be at a commercially reasonable rate and at terms comparable
 23 to an arm's length transaction for purposes of subsection (c) if:
 24 (1) the recipient is organized under laws of a country that has
 25 entered into a comprehensive income tax treaty with the
 26 United States; and
 27 (2) the intangible expenses or directly related intangible
 28 interest expenses meet the arm's length standards of United
 29 States Treasury Regulation 1.482-1(b).
- 30 (e) If intangible expenses or directly related intangible expenses
 31 are determined not to be at a commercially reasonable rate or at
 32 terms comparable to an arm's length transaction for purposes of
 33 subsection (c)(2) or (c)(5), the adjustment required by subsection
 34 (b) shall be made only to the extent necessary to cause the
 35 intangible expenses or directly related intangible interest expenses
 36 to be at a commercially reasonable rate and at terms comparable
 37 to an arm's length transaction.

38 SECTION 5. IC 21-3-1.7-9, AS AMENDED BY P.L.246-2005,

SECTION 200, IS AMENDED TO READ AS FOLLOWS
 [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 9. (a)
 Subject to the amount appropriated by the general assembly for tuition
 support, the amount that a school corporation is entitled to receive in
 tuition support for a year is the amount determined in section 8.2 of this
 chapter.

(b) If the total amount to be distributed as tuition support under this
 chapter, in 2005 for enrollment adjustment grants under section 9.5 of
 this chapter (before its repeal), for academic honors diploma awards
 under section 9.8 of this chapter, in 2005 for supplemental remediation
 grants under section 9.9 of this chapter (before its repeal), for primetime
 distributions under IC 21-1-30, for special education grants under
 IC 21-3-2.1, and for vocational education grants under IC 21-3-12 for
 a particular year, exceeds:

(1) three billion seven hundred fifty-nine million three hundred
 thousand dollars (\$3,759,300,000) in 2005;

(2) **the greater of:**

(A) three billion ~~seven~~ **eight** hundred ~~fifty-four~~ **two** million
~~seven~~ **nine** hundred thousand dollars (~~\$3,754,700,000~~)
 (\$3,802,900,000) in 2006; or

(B) **the amount necessary to enable the department of
 education to make tuition support distributions in 2006 in
 accordance with IC 21-1-30 and this article without
 requiring a reduction in the amount distributed for tuition
 support under this section; and**

(3) three billion seven hundred forty-seven million two hundred
 thousand dollars (\$3,747,200,000) in 2007;

the amount to be distributed for tuition support under this chapter to
 each school corporation during each of the last six (6) months of the
 year shall be proportionately reduced so that the total reductions equal
 the amount of the excess. The amount of the reduction for a particular
 school corporation is equal to the total amount of the excess multiplied
 by a fraction. The numerator of the fraction is the amount of the
 distribution for tuition support that the school corporation would have
 received if a reduction were not made under this section. The
 denominator of the fraction is the total amount that would be distributed
 for tuition support to all school corporations if a reduction were not
 made under this section. **However, the department of education shall**

distribute the full amount of tuition support to school corporations in the second six (6) months of 2006 in accordance with IC 21-1-30 and this article without a reduction under this section."

Page 2, line 25, delete "one hundred thirty-six" and insert "**fifteen**".

Page 2, line 25, delete "five hundred thousand".

Page 2, line 26, delete "(\$136,500,000)" and insert "**(\$15,000,000)**".

Page 3, line 13, delete "forty" and insert "**fifteen**".

Page 3, line 14, delete "(\$40,000,000)" and insert "**(\$15,000,000)**".

Page 3, line 19, delete "\$15,667,060" and insert "**\$5,875,147**".

Page 3, line 20, delete "10,795,022" and insert "**4,048,133**".

Page 3, line 21, delete "2,399,680" and insert "**899,880**".

Page 3, line 22, delete "1,225,670" and insert "**459,626**".

Page 3, line 23, delete "4,077,062" and insert "**1,528,899**".

Page 3, line 24, delete "1, 190,030" and insert "**446,262**".

Page 3, line 26, delete "4,645,476" and insert "**1,742,053**".

Page 3, line 27, delete "\$40,000,000" and insert "**\$15,000,000**".

Page 4, after line 20, begin a new paragraph and insert:

"SECTION 8. [EFFECTIVE JULY 1, 2005 (RETROACTIVE)] (a)

There is appropriated to the department of education the greater of the following from the state general fund for the purposes of making the distributions for tuition support described in IC 21-3-1.7-9, as amended by this act, beginning July 1, 2005, and ending June 30, 2006:

(1) Twenty million one hundred thousand dollars (\$20,100,000).

(2) An amount sufficient to enable the department of education to make tuition support distributions after December 31, 2005, and before July 1, 2006, in accordance with IC 21-1-30 and IC 21-3 without requiring a reduction in tuition support distributions to school corporations in the first six (6) months of 2006.

The amount appropriated under this SECTION is in addition to the amount appropriated by P.L.246-2005, SECTION 9 to the department of education for distribution for tuition support but is subject to the terms and conditions specified in P.L.246-2005, SECTION 9 for the distribution for tuition support.

(b) The deficiency appropriation made by this SECTION is not subject to transfer to any other fund or subject to transfer,

assignment, or reassignment for any other use or purpose by:

- (1) the state board of finance, notwithstanding IC 4-9.1-1-7, IC 4-13-2-23, or any other law; or
- (2) the budget agency, notwithstanding IC 4-12-1-12 or any other law.

SECTION 9. [EFFECTIVE UPON PASSAGE] (a) The definitions in IC 6-1.1-1, IC 6-1.1-20.9, and IC 6-1.1-21 apply throughout this SECTION.

(b) A taxpayer that is eligible for a homestead credit under IC 6-1.1-20.9 in 2006 is eligible for an additional child welfare relief credit under this SECTION in 2006. The amount of the additional child welfare relief credit to which the taxpayer is entitled equals the product of:

- (1) twelve percent (12%); multiplied by
- (2) the amount of the individual's property tax liability, as that term is defined in IC 6-1.1-21-5, that is:
 - (A) attributable to the homestead during the particular calendar year; and
 - (B) determined after the application of the property tax replacement credit under IC 6-1.1-21.

(c) A county auditor:

- (1) may apply the entire amount of the additional child welfare relief credit granted by this SECTION equally to all installments of property taxes first due from the taxpayer in 2006; or
- (2) if application of the credit to the first installment would delay the delivery of tax statements more than thirty (30) days after the date that the tax statements would otherwise be mailed or transmitted, may issue revised tax statements and apply the entire credit to the property tax due in a later installment.

IC 6-1.1-22.5-6 does not apply if the county auditor elects to proceed under subdivision (2). The department of local government finance may prescribe procedures to apply the additional child welfare relief credit to tax statements. A county auditor shall comply with the procedures prescribed under this subsection.

(d) The property tax replacement fund board shall provide for an additional distribution to taxing units from the property tax

1 replacement fund to replace revenue lost to a county as the result
 2 of the granting of additional child welfare relief credits under this
 3 SECTION. The distribution shall be made on the schedule
 4 determined by the property tax replacement fund board. To the
 5 extent possible, the property tax replacement fund board shall
 6 make distributions under this subsection at the same time
 7 distributions of homestead credits and other property tax
 8 replacement credits are made. A distribution under this subsection
 9 is not subject to any law limiting the maximum amount that may
 10 be distributed under IC 6-1.1-21. The amount distributed under
 11 this subsection is not included in the amount used to determine the
 12 minimum amount that must be distributed or maximum
 13 distribution that may not be exceeded under IC 6-1.1-21.

14 (e) This subsection applies to a taxpayer in an allocation area
 15 that would be eligible for an additional credit under any of the
 16 following:

- 17 (1) IC 8-22-3.5-10.
- 18 (2) IC 36-7-14-39.
- 19 (3) IC 36-7-14-39.5.
- 20 (4) IC 36-7-15.1-26.5.
- 21 (5) IC 36-7-15.1-35.
- 22 (6) IC 36-7-15.1-56.
- 23 (7) IC 36-7-30-25.
- 24 (8) IC 36-7-30-27.
- 25 (9) IC 36-7-30.5-30.
- 26 (10) IC 36-7-30.5-32.
- 27 (11) IC 36-7-32-18.

28 As used in this subsection, "designating body" refers to the
 29 governing body permitted to reduce an additional credit otherwise
 30 granted in an allocation area to which a provision described in
 31 subdivisions (1) through (8) applies. Subject to this subsection, a
 32 taxpayer that is entitled to an additional credit on the taxpayer's
 33 homestead in an allocation area is entitled to a supplemental credit
 34 under this subsection. The amount of the supplemental credit is
 35 equal to the amount necessary to give the taxpayer the same total
 36 credit that the taxpayer would have received if the taxpayer's
 37 tangible property were not located in an allocation area. The
 38 supplemental credit reduces the amount of proceeds allocated to

the district where the allocation area is located and paid into an allocation fund. A designating body may reduce the amount of the supplemental credits granted in an allocation area in the same manner and for the same reasons that the designating body is permitted to reduce an additional credit in the allocation area. The department of local government finance may prescribe procedures to use to apply a supplemental credit to tangible property in an allocation area. A county auditor shall comply with the procedures prescribed under this subsection.

(f) This SECTION expires January 1, 2007.

SECTION 10. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "taxable year" has the meaning set forth in IC 6-3-1-16.

(b) IC 6-3-2-20, as added by this act, applies only to taxable years beginning after June 30, 2006.

(c) The addition of IC 6-3-2-20, as added by this act, does not affect the legitimacy or illegitimacy of deductions claimed by taxpayers for taxable years beginning before July 1, 2006. Any determination of:

(1) the department of state revenue; or

(2) a court reviewing a department of state revenue determination;

of the legitimacy or illegitimacy of deductions claimed by taxpayers for taxable years beginning before July 1, 2006, shall be made without regard to IC 6-3-2-20, as added by this act.

(d) The department of state revenue may adopt temporary rules in the manner provided for the adoption of emergency rules under IC 4-22-2-37.1 to implement IC 6-3-2-20, as added by this act, and IC 6-3-1-3.5, as amended by this act. A temporary rule adopted under this SECTION expires on the earliest of the following:

(1) The date a rule is adopted by the department of state revenue under IC 4-22-2 that repeals, amends, or supersedes the temporary rule.

(2) The date another temporary rule is adopted under this SECTION that repeals, amends, or supersedes a previously adopted temporary rule.

(3) The date specified in the temporary rule.

(4) July 1, 2007.

SECTION 11. An emergency is declared for this act."

- 1 Renumber all SECTIONS consecutively.
 (Reference is to SB 345 as reprinted January 31, 2006.)

and when so amended that said bill do pass.

Representative Espich